

General Information Letter: Nonresident partners allocate to Illinois their partnership shares of the business income of the partnership apportioned to Illinois by the partnership.

May 24, 2000

Dear:

This is in response to your letter dated May 18, 2000, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.revenue.state.il.us.

In your letter you have stated the following:

The Income Tax Audit Division has recommend that we request an approval to use the income allocation method that we have been using since the inception of the above partnerships. The Department has just accepted our 1998 return based on the method we are using and we have not had any problem in prior years. It is expected that the partnerships will also be liquidated within the next couple of years. We liquidate as the partnerships we are in liquidate.

Background - The above partnerships are partners in national partnerships that own rental real estate all over the US. These partnerships own buildings and or apartments in different states. When we receive our partnership K-1's at the end of each year the various partnership indicate what income/loss is located to the various states either by total dollars or by unit. If it is by unit we must compute the amount by multiplying the number of units held by the unit amount. We allocate the amount assigned by the partnership to the various states. We then prepare the state returns for the applicable states. Sample K-1s are attached so you may verify how we receive the information.

We own no other assets, have no employees and no sales factor to use the normal allocation formula.

Response

Section 305(a) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/101 et seq.) provides that:

The respective shares of partners other than residents in so much of the business income of the partnership as is allocated or apportioned to this State in the possession of the partnership shall be taken into account by such partners pro rata in accordance with their respective distributive shares of such partnership income for the partnership's taxable year and allocated to this State.

In other words, a partnership apportions its business income to Illinois, and each nonresident partner includes its partnership share of that Illinois income in its own Illinois net income. Because only individuals, trusts and estates may be residents, a partnership is necessarily a nonresident. See Sections 1051(a)(14) and (20) of the IITA.

From your description of your method of computing your Illinois net income, it appears that you are following the statutory requirements. If the amounts reported to you as apportioned to Illinois by your partnerships are in fact apportioned according to the IITA, it appears that you are properly determining your Illinois net income from the partnerships.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy Chief Counsel -- Income Tax